

## Message Text

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ORIGIN ARA-04

INFO OCT-01 ISO-00 /005 R

66618

DRAFTED BY ARA/CEN/N:DLARE:RMC

APPROVED BY ARA/CEN DAVID LAZAR

ARA/PAN:RHOWARD

----- 112388

R 112213Z SEP 74

FM SECSTATE WASHDC

TO AMEMBASSY GUATEMALA

AMEMBASSY TEGUCIGALPA

AMEMBASSY MANAGUA

AMEMBASSY SAN JOSE

AMEMBASSY BOGOTA

AMEMBASSY QUITO

AMCONSUL GUAYAQUIL

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FOLLOWING REPEAT PANAMA 5225 SENT ACTION SECSTATE SEP  
6TH.

QUOTE:

1. FOLLOWING MESSAGE FROM PANAMA FOR EMBASSY INFORMATION  
ONLY SINCE FULL AGREEMENT HAS NOT BEEN MADE PUBLIC.

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EO 11652: N/A

TAGS: ETRD, PN

SUBJ: GOP-UB AGREEMENT

REF: (A) PANAMA 5188 (B) PANAMA 5195

1. FOLLOWING IS ORIGINAL ENGLISH VERSION OF BANANA TAX  
AGREEMENT BETWEEN GOP AND UNITED BRANDS. WHILE ADMITTEDLY  
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NOT IN POLISHED FORM, IT CONSTITUTES ACTUAL NEGOTIATING DOCU-

MENT AGREED UPON BY GOP AND UB REPRESENTATIVES. GOP TRANSLATED IT INTO SPANISH (REF A) WHICH IN TURN WAS RETRANSLATED BY EMBASSY INTO ENGLISH (REF B). NO DOCUMENT WAS SIGNED BY PARTIES AND IT IS BEING REFERRED TO AS "ORAL AGREEMENT." EMBASSY POUCHING TO ARA/PAN TWO PHOTOSTATIC COPIES OF HAND-WRITTEN DOCUMENT FURNISHED BY MINISTER MANFREDO. DEP. REQUESTED PROVIDE UB WITH TELEGRAPHIC TEXT AS WELL AS PHOTO-STATIC COPY.

2. DURING OUR DISCUSSION OF TEXT, MINISTER MANFREDO CORRECTED ERROR CONTAINED IN FOURTH SENTENCE OF PARAGRAPH 1. SENTENCE SHOULD BEGIN "UNTIL THE NEW EXPORT TAX..." INSTEAD OF "AFTER THE NEW EXPORT TAX...." (SEE CORRECTED TEXT BELOW):

3. BEGIN QUOTE.

1. THE GOVERNMENT OF PANAMA AGREES THAT WITHIN A MAXIMUM PERIOD OF 15 DAYS FROM THE DATE OF THE RE-STARTING OF SHIPMENTS THE GOVERNMENT WILL ESTABLISH A NEW TAX LEVEL FOR THE EXPORT OF BANANAS. SAID LEVEL WILL BE EQUIVALENT TO THE UNIFORM EXPORT TAX AGREED UPON AND IMPLEMENTED BY THE UPEB AT ITS MEETING OF SEPTEMBER 17; IT BEING UNDERSTOOD THAT SUCH UPEB TAX SHALL BE BASED ON THE UNIFORM TAX APPROVED AND IMPLEMENTED BY THE COUNTRIES WITH THE LARGEST PRODUCING CAPACITY. IN THE EVENT THAT THE MEETING DOESN'T RESULT IN ANY SUCH UNIFORM EXPORT TAX, THEN, THE GOVERNMENT OF PANAMA SHALL UNILATERALLY ENACT A NEW TAX LEVEL TO MAKE THE BANANA INDUSTRY OF PANAMA COMPETITIVE WITH THAT OF OTHER MAJOR BANANA PRODUCING COUNTRIES. UNTIL THE NEW EXPORT TAX COMES INTO EFFECT IT IS AGREED THAT DURING THE MAXIMUM OF 15 DAYS FROM THE DATE OF RESUMPTION OF EXPORTS UNTIL SUCH NEW TAX COMES INTO EFFECT, AN AMOUNT EQUIVALENT TO THE NEW UPEB TAX AS ABOVE DEFINED SHALL BE PAID BY THE COMPANY 60 DAYS AFTER EACH SHIPMENT, THE EXCESS OVER SUCH UPEB TAX AMOUNT AND THE AMOUNT OF ONE DOLLAR A BOX FOR SHIPMENTS DURING THAT 15 DAY PERIOD SHALL BE TREATED AS FOLLOWS:

A) IN THE EVENT THE COMPANY AND THE PANAMANIAN GOVERNMENT SHOULD WITHIN A REASONABLE PERIOD OF TIME LIMITED OFFICIAL USE

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AGREE TO A TRANSFER AND SALE OF THE COMPANY'S ASSETS WITHIN THE REPUBLIC OF PANAMA, THEN THE COMPANY WILL GRANT THE GOVERNMENT A CREDIT FOR SUCH AMOUNT AGAINST THE AGREED PURCHASE PRICE.

B) OTHERWISE THE PARTIES WILL AGREE AS TO THE MANNER OF PAYMENT OF SUCH AMOUNTS.

C) IT IS UNDERSTOOD THAT THE PAYMENT OF SUCH EXCESS AMOUNT ABOVE THE NEW UPEB TAX SHALL NOT BE PAID

AS AN EXPORT TAX, BUT AS PART OF THE PURCHASE PRICE OF THE COMPANY'S ASSETS OR IN ANY OTHER CONCEPT AS AGREED UPON BY BOTH PARTIES.

2. AS TO THE TAX OF ONE DOLLAR PER BOX WITH REFERENCE TO SHIPMENTS ALREADY MADE WITHIN THE 60 DAY PERIOD PRIOR TO THE STOPPAGE OF EXPORTS AND NOT HERETOFOR PAID, THE COMPANY AGREES TO PAY SUCH AMOUNT AS FOLLOWS:

A) THE AMOUNT OF 1.8 MILLION IN CASH WITHIN 7 DAYS OF THE DAY HEREOF AND

B) THE BALANCE TO BE PAID IN THE FIRST INSTANCE AS A CREDIT AGAINST THE PURCHASE PRICE OF THE ASSETS OF THE COMPANY, OR IF THERE IS NO SALE AGREED UPON, THEN THE COMPANY WILL AGREE ON A FORM OF PAYMENT WITH THE GOVERNMENT OF PANAMA.

3. THE COMPANY AND THE PANAMANIAN GOVERNMENT HEREBY AGREE THAT EXCEPT AS OTHERWISE HEREIN EXPRESSLY PROVIDED, THEY RESERVE ALL THEIR RIGHTS AND LEGAL CLAIMS. IN PARTICULAR IT IS AGREED THAT ANY AMOUNTS PAID OR AGREED TO BE PAID BY THE COMPANY AS EXPORT TAXES ARE MADE WITHOUT PREJUDICE TO THE RIGHTS OF THE COMPANY TO CLAIM THAT SUCH TAXES WERE IMPROPERLY IMPOSED OR COLLECTED BEFORE A COMPETENT COURT.

4. THE COMPANY WILL START NEGOTIATIONS WITH ITS ASSOCIATE PRODUCERS WITH RESPECT TO AN INCREASE IN THE PRICE PER BOX TO COVER INCREASED COSTS AND MAKE ANY PRICE ADJUSTMENT RETROACTIVE TO THE DATE OF THE FIRST SHIPMENT. THE GOVERNMENT ACCEPTS IN GOOD FAITH THE COMPANY'S PROMISE TO REACH AN EQUITABLE SOLUTION AS TO SUCH INCREASE. THESE NEGOTIATIONS WILL BE CARRIED OUT IN THE PRESENCE OF GOVERNMENT OFFICIALS IF THE GOVERNMENT OFFICIAL USE

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MENT SO DESIRES.

5. THE GOVERNMENT WILL NOT CLAIM OR MAKE ANY CLAIM WITH REFERENCE TO ANY TAX OR DAMAGES THE GOVERNMENT MIGHT HAVE OBTAINED OR SUFFERED BECAUSE OF THE SUSPENSION OF SHIPMENTS (EXPORT TAXES, WHARFAGE FEES AND RAILROAD CHARGES).

6. THE PARTIES HAVE AGREED TO START AS SOON AS POSSIBLE NEGOTIATIONS WITH REFERENCE TO THE TRANSFER AND SALE OF THE ASSETS OF THE COMPANY WITHIN THE REPUBLIC OF PANAMA TO THE PANAMANIAN GOVERNMENT OR ALTERNATIVELY WITH REFERENCE TO THE CHANGE OF THE FORM OF PRESENCE IN PANAMA OF THE COMPANY WITH A VIEW TO AVOID FUTURE POSSIBLE FRICTIONS; BUT THERE IS NO SUCH OTHER

FORM PRESENTLY CONTEMPLATED BY THIS AGREEMENT.

7. THE COMPANY WILL PAY ALL VALID LABOR CLAIMS WITH  
REFERENCE TO ALL OF ITS EMPLOYEES OR EMPLOYEES AT OTHER  
COMPANIES THAT UNDER THE PANAMA LABOR LAWS HAVE VALID  
CLAIMS AGAINST THE COMPANY. END QUOTE.

JORDEN

UNQUOTE KISSINGER

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## Message Attributes

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